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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/637,401

08/08/2003

David Charneski

85269PCW

3164

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08/12/2004

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EXAMINER

NGUYEN, LINH M

ART UNIT

PAPER NUMBER

2816

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/637,401

Applicant(s)

CHARNESKI ET AL.

Examiner

Linh M. Nguyen

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/08/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 1-10 are presented in the instant application according to the Applicants' filing on 08/08/2003.

#### ***Inventorship***

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-3, 5, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Maggio et al. (U.S. Pub. No. 2002/0126785).

With respect to claims 1 and 7, Maggio et al. discloses, in Figure 2, a clock generator for providing programmable control of an output clock, the clock generator comprising:

(a) a mechanism for creating a plurality of clocks offset in phase [LD]; (b) two programmable selectors [A, B] for selecting two clocks from the plurality of clocks; and (c) logic [SPS] for combining the two selected clocks to create an output clock with any combination of offset, if any, and width.

With respect to claim 2, Maggio et al. discloses, in Figure 2, a logic element [LSP3] for starting and stopping the output clock.

With respect to claim 3, Maggio et al. discloses, in Figure 2, a logic element [LSP1, LSP2] for starting and stopping the two selected clocks from the programmable selectors.

With respect to claims 5 and 9, Maggio et al. discloses at page 1, paragraph [0010] that as an alternative a delay locked loop could be used for the delay block for creating the plurality of clocks.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio et al. (U.S. Pub. No. 2002/0126785) in view of Charneski et al. (U.S. Patent No. 5,982,428).

With respect to claims 6 and 10, Maggio et al. discloses all of the claimed limitations as expressly recited in claims 1 and 7, except for the mechanism for creating the plurality of clocks includes a programmable clock generator and at least one shift register.

Charneski et al. discloses, in Fig. 1A, a mechanism for creating a plurality of clocks includes a programmable clock generator [40] and at least one shift register [42].

To configure the clock generator of Maggio et al. with a programmable clock generator and at least one shift register as taught by Charnesky et al. to obtain the capability of altering the duty cycle and/or phase the clocks would have been obvious to one of ordinary skill in the art at the time of the invention since Charnesky et al. teaches that such configuration would provide the ability to alter pulse width and pulse location (*see Charnesky et al., col. 1, lines 33-36*).

***Allowable Subject Matter***

6. Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter.

The closest prior art on record does not show or fairly suggest:

A clock generator including a logic element for starting and stopping the plurality of clocks, as called for in claims 4 and 8.

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*Citation of Relevant Prior Art*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art Perino et al. (U.S. Patent No. 6,687,319) discloses a spread spectrum clocking of digital signals.

Prior art Demone (U.S. Patent No. 6,441,659) discloses a frequency-doubling delay locked loop.

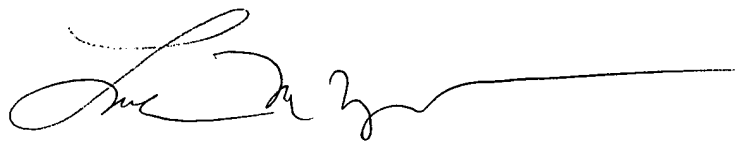
*Inquiry*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh M. Nguyen whose telephone number is (571) 272-1749. The examiner can normally be reached on Alternate Mon, Tuesday - Friday from 7:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy P. Callahan can be reached on (571) 272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMN



**LINH MY NGUYEN  
PRIMARY EXAMINER**